

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Norfolk Division

TROY JACKSON, #299646,

Petitioner,

v.

ACTION NO. 2:05CV251

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions for second-degree murder and burglary on May 11, 2001, in the Circuit Court of the City of Richmond, as a result of which he was sentenced to serve a total of 43 years (with 25 years suspended) in the Virginia penal system.

The Court notes that the case was transferred from the Roanoke Division of the United States District Court for the Western District of Virginia with an incorrectly designated party respondent. It is ORDERED that the petition shall be deemed amended to substitute as the sole respondent in this proceeding Gene M. Johnson, Director of the Virginia Department of Corrections. See Rule 2 of the Rules Governing Section 2254 Cases in the United

States District Courts (foll. 28 U.S.C. § 2254).

This matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. Report of the Magistrate Judge was filed on July 18, 2005, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On July 29, 2005, the Court received petitioner's Motion for Extention [sic] of Time in which to file objections. By Order entered August 1, 2005, the motion was granted and the deadline was extended to August 18, 2005. On August 4, 2005, the Court received and filed Petitioner's Objections to the Magistrate Judge's Report and Recommendation.

The Court, having reviewed the record and examined the objections filed by the petitioner to the United States Magistrate Judge's Report, and having made de novo findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed July 18, 2005. It is, therefore, ORDERED that the petition be DENIED and DISMISSED, because petitioner's claims are barred by the statute of limitations. It is further ORDERED that judgment be entered in favor of the respondent.

Petitioner Jackson has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within 30 days from the date of entry of such judgment.

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/Rebecca Beach Smith

UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

October 13, 2005